

REMARKS

Applicants respectfully do not agree with the Examiner's opinion that the independent claims 89 and 111 are obvious over Andersson in view of Kinoshita.

In the analysis expressed in the outstanding Action, the Examiner did **not** discuss what Andersson discloses about the recovery path in the absence of a fault in the primary path. The independent claims 89 and 111 clearly require that a protection path carries non-worker data in the absence of a fault in the worker path. This requirement is even clearer and stronger after making the amendments set forth above.

Andersson **fails** to disclose or suggest if and how the recovery path is used when there is no fault. Similarly, Kinoshita is **silent** about that. Both Andersson and Kinoshita are only concerned with setting up a protection/recovery path, but are silent about what happens with this protection/recovery path when there is no fault in the main path.

Further, the Examiner contended that Andersson discloses "*protection means being operative for identifying location of the fault*". Applicants respectfully submit that Andersson does **not** disclose that.

The Examiner in his analysis relied upon paragraphs 97 and 98 of Andersson. In paragraph 97, Andersson refers to prior art techniques and, in paragraph 98, Andersson refers to his invention that does not use the signaling referred to by the Examiner and discussed in paragraph 97.

These two paragraphs are clearly in conflict, and Andersson specifically proposed them to show what is prior art, and that his invention is **not** using this earlier technique described in paragraph 97. The Examiner in the analysis cannot simply pick any part of the description and combine it with any other.

In analyzing applicants' claims, the Examiner used the Andersson invention as prior art, and it is clear that Andersson in paragraph 98 teaches *away* from using the prior technique of paragraph 97, and a person skilled in the art would *not* use this prior technique to modify the invention of Andersson. Paragraph 98 discloses only that: if a fault is detected, then the node (that detects the fault) switches over to a recovery path. The term "detecting" means that the node learns that there is a fault. The term "identifying" the location answers the question where the fault is. The terms detecting and identifying are two different things. Kinoshita is also *silent* about identifying the location of the fault.

The Examiner also contended that Andersson discloses "*returning the worker data to a part of the worker path not affected by the fault*". Applicants respectfully submit that Andersson does *not* disclose that, either.

In the paragraph relied upon by the Examiner, Andersson discloses: "*Upon detecting a network failure, the network nodes switch certain communications to one or more recovery paths in order to bypass the network failure, while communications unaffected by the network failure typically remain on the primary paths*".

Anderson clearly disclosed that communication that is not affected by the fault in the network does not change paths (i.e., remains on the same path). The language of applicants' claims is clear. The term "returning" means that the worker data from the worker path not affected by the fault must be on some other path in order to return to the not affected worker path. Conversely, if it remains on the primary path, then there is no return to the primary path.

Applicants' claims also make it clear that the return is "from at least one of the plurality of detours providing an alternative to that part of the worker path not affected by the worker path". The Examiner, however, ignored this limitation in his analysis of claim 89.

Although the paragraph relied upon by the Examiner discloses that the traffic typically remains on the primary paths if they are not affected, Andersson *fails* to disclose any non-typical situation and, therefore, clearly fails to disclose or suggest the limitation of claim 89. Kinoshita also fails to disclose or suggest the feature of "returning the worker data to a part of the worker path not affected by the fault from at least one of the plurality of detours providing an alternative to that part of the worker path not affected by the worker path".

Claim 89 further requires that "the protection means being operative for activating the entire plurality of detours to carry the worker data upon detection of a fault in the worker path", and this limitation also has been ignored in the Examiner's analysis.

Claim 89 requires that the protection paths are predetermined before detection of a fault in the network. This means that there must be a plurality of protection paths defined, because it is not known where the fault will occur. This also means that all that detours (protection paths) are activated to carry the worker data if a fault occurs (entire plurality).

However, Andersson in paragraph 100 discloses something different. In lines 10 - 14 of paragraph 100, Andersson discloses: *"After the switch over to the recovery path is completed, traffic affected by the failure flows over the recovery path, while the rest of the traffic remains on the primary paths defined by the routing protocols or traffic engineering before the failure occurred."* Since Andersson discloses in paragraph 63 that the recovery paths are pre-computed, this means that they are computed also for paths not affected by the failure (because this is done

before the fault occurs). This, in turn, means that paragraph 100 discloses that ***not all*** recovery paths are activated upon detection of a failure. Kinoshita also ***fails*** to disclose activating all predetermined protection paths in the case of fault detection.

In view of the large number of distinguishing features between claim 89 and the prior art relied upon by the Examiner, it is submitted that claim 89 is novel and also non-obvious, because even if one skilled in the art were to combine the teachings of Andersson and Kinoshita, then the resulting combination would still be different from the solution defined in claim 89. Similar comments are applicable to claim 111. Applicants therefore submit that claims 89 and 111, and the claims dependent thereon, are both novel and inventive in view of the cited prior art, and that this application should now be in order for allowance.

Wherefore, a favorable action is earnestly solicited.

Respectfully submitted,

KIRSCHSTEIN, ISRAEL, SCHIFFMILLER & PIERONI, P.C.
Attorneys for Applicant(s)
425 Fifth Avenue, 5th Floor
New York, New York 10016-2223
Tel: (212) 697-3750
Fax: (212) 949-1690

/Alan ISRAEL/

Alan Israel
Reg. No. 27,564